

REMARKS

Claims 1-3, 7-11, 13, 23-27, 29-35, 38, 40, and 42-51 are pending in the present application.

This Amendment is in response to the Office Action mailed June 11, 2008. In the Office Action, the Examiner rejected claims 1-3, 7-11, 13, 23-27, 29-35, 38, 40, and 42-51 under 35 U.S.C. §103(a). Reconsideration in light of the remarks made herein is respectfully requested.

Claims Rejected Under 35 U.S.C. § 103

The Examiner rejected claims 1-3, 7-11, 13, 23-27, 29-35, 38, and 40-50 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,301,586 issued to Yang et al. (hereinafter “Yang”) in view of U.S. Patent No. 6,567,983 issued to Shiimori (hereinafter “Shiimori”) in view of U.S. Patent Publication No. 2003/0133019 filed by Higurashi et al. (hereinafter “Higurashi”) and in further view of U.S. Patent No. 6,571,221 issued to Stewart et al. (hereinafter “Stewart”); claims 24, 43, and 46 under 35 U.S.C. § 103(a) as being unpatentable over Yang in view of Shiimori in view of Stewart and in further view of U.S. Patent No. 6,369,835 issued to Lin (hereinafter “Lin”); claims 38 and 40 under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi and in further view of Stewart; claims 45 and 48 under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Shiimori in view of Higurashi in view of Stewart and in further view of U.S. Patent No. 6,892,351 issued to Vasudevan (hereinafter “Vasudevan”); claims 49 and 50 under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi in view of Shiimori in further view of Stewart; claim 51 under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi in view of Shiimori in view of Stewart and in further view of Vasudevan. Applicant respectfully submits that a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D*

1596 (Fed. Cir. 1988). Herein, the combined teachings of the cited references fail to describe or suggest all of the claim limitations.

Yang, Shiimori, Higurashi and Stewart, alone or in combination, fail to disclose at least "requesting and receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation image where a first remote source is more expensive to access presentation images than a local second source", as recited in independent claims 1 and 23 and "receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation image where a first remote source is more expensive to access presentation images than a local second source", as recited in independent claims 38 and 49.

In the Office Action, the Examiner admits that Yang in view of Shiimori in view of Higurashi fails to teach or suggest "requesting and receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation image where a first remote source is more expensive to access presentation images than a local second source", as recited in independent claims 1, 23, 38, and 49 (Office Action, pages 4 and 12). However, Examiner alleges that Stewart teaches this element of the claims. Applicant respectfully disagrees.

Stewart merely discloses each subscriber to the network service having a "value bucket" which determines the amount of network access or service available to the user. Billing for access to the network communication service, i.e., the amount the "value bucket" is drained or filled, may be based on one or more of a number of factors, including information stored in the digital certificate, such as the geographic location of the user (Stewart, col. 3, lines 26-40). For example, the digital certificate of a user may contain information indicating the user is a member of the American Airlines Advantage program. If this user accesses the service provider's network through an access point located near an American Airlines gate or in an American Airlines

Admiral's Club, American Airlines may choose to allow the user free or reduced rate access while connected to the network (Stewart, col. 3, lines 57-67).

In contrast the claims recite "requesting and receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation images..." *Emphasis added*. Given that the subscriber in Stewart is merely accessing the service provider's network through an access point, there is no teaching or suggestion in Stewart of sending the visual presentation to the user or retrieving presentation images.

Additionally, the claims recite "an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation images where a first remote source is more expensive to access presentation images than a local second source." *Emphasis Added*. Applicant respectfully submits that the geographic location of the user (e.g., distance from the American Airlines gate) is not equivalent to "a first remote source" or "a local second source", as alleged by the Examiner. Since the user merely gains access to a the same network whether he is geographically close or far from the American Airlines gate, network cannot be both a first remote source or a local second source. Accordingly, there is no teaching in Stewart of, at least, "an amount of compensation varies depending on which sources of the plurality of sources are accessed."

As discussed above, Yang, Shiimori, Higurashi and Stewart do not disclose or render obvious elements of independent claims 1, 23, 38, and 49. Accordingly, a combination of Yang, Shiimori, Higurashi and Stewart with any other references in rejecting claims dependent thereon is improper.

In light of the foregoing, Applicant respectfully submits that a *prima facie* case of obviousness has not been established, and thus, withdrawal of the §103(a) rejection as applied to claims 1, 23, 38, and 49 are respectfully requested.

Conclusion

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (714) 557-3800.

Respectfully submitted,

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